

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.

Paper No. 16

Filed by: Trial Section Merits Panel
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

MASAYUKI AOKI,

Junior Party,
(Patent No. 5,659,426)¹

v.

HIROKI NAKAYAMA,

Senior Party.
(Application 09/121,093)²

Patent Interference No. 104,419

Before McKELVEY, Senior Administrative Patent Judge, LEE and
TORCZON, Administrative Patent Judges.

¹ Issued from application 08/609,563, filed March 1, 1996. Accorded the benefit of Japanese application 7-100580, filed March 31, 1995. Assigned to Nikon Corporation.

² Filed July 23, 1998. Accorded the benefit of application 08/485,136, filed June 7, 1995, now Patent No. 5,847,882, issued December 8, 1998; Japanese application 7-016452, filed January 6, 1995; Japanese application 6-141499, filed June 23, 1994. Assigned to Canon Kabushiki Kaisha.

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LEE, Administrative Patent Judge.

Judgment

This interference was declared on September 20, 1999. On October 29, 1999, junior party Aoki filed a request for entry of adverse judgment pursuant to 37 CFR § 1.662(a). (Paper No. 15). The request is **granted**.

Accordingly, it is

ORDERED that judgment as to the subject matter of count 1 is awarded against junior party Aoki;

FURTHER ORDERED that judgment as to the subject matter of count 2 is also awarded against junior party Aoki;

FURTHER ORDERED that Masayuki Aoki is not entitled to patent claims 1, 4, and 8 which correspond to count 1,

FURTHER ORDERED that Masayuki Aoki is also not entitled to patent claims 1-8 which correspond to count 2;

FURTHER ORDERED that on this record, Hiroki Nakayama is entitled to application claims 26, 30 and 33 which correspond to count 1; and

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FURTHER ORDERED that on this record, Hiroki Nakayama is
also entitled to application claims 26-28, 30-33, and 37-40
which correspond to count 2.

Fred E. McKelvey, Senior)
Administrative Patent Judge)

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Jameson Lee)
Administrative Patent Judge)

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Richard Torczon)
Administrative Patent Judge)

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BOARD OF PATENT
APPEALS
AND
INTERFERENCES

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By Federal Express

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Real Party of Interest:

Canon Kabushiki Kaisha